

REMARKS/ARGUMENTS

Claims 1-30 are pending in the present application. Claims 1-27 have been rejected. Claims 28-30 have been added. No claims have been allowed.

Specification

Applicants have amended [0017] to correct a typographical error in accordance with the Examiner's suggestion. Applicants respectfully submit that no new matter has been added.

Claim Rejections – 35 U.S.C. §102

The Examiner rejected independent Claims 12 and 21, and Claims 13, 17-19 and 25 depending therefrom, under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,544,009 to Makino et al. (hereinafter "Makino '009").

Makino '009 discloses, referring to Figs. 1 and 4-8, a compressor including housing 1 and electric motor 3 mounted within housing 1. Electric motor 3 includes stator 3a which includes a plurality of apertures or holes 42 formed within the various laminations of stator 3a and which, when taken together, form passages extending into stator 3a to form a sound deadening path. (*see* col. 5, line 58 through col. 6, line 50).

Amended independent Claim 12 calls for a hermetic compressor including, *inter alia*, a housing having a wall defining an interior plenum, and a tuner *comprising a discrete member* having an open end and an opposite closed end, the tuner defining a resonating cavity extending from the open end to the closed end, the resonating cavity in direct communication with the interior plenum via the open end.

Amended independent Claim 21 calls for a method of attenuating the noise and vibration within a hermetic compressor having a housing defining an interior plenum, the method including the steps of providing a *discrete* tuner defining a resonating cavity and having an open end and an opposite closed end, the resonating cavity defining a length between the open and closed ends, and positioning the tuner such that the open end is in direct communication with the interior plenum.

Applicants respectfully submit that Makino '009 does not disclose or suggest a compressor including a tuner comprising a *discrete member*, or a *discrete* tuner, as called for in amended independent Claims 12 and 21, respectively. As may be seen from Figs. 1-5 of

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the present application, tuner 52 is provided as a discrete, or separate, member with respect to the remainder of the compressor with which it is used.

On the contrary, Makino '009 fails to disclose a compressor having discrete tuner, but rather discloses a compressor having a stator 3a which includes a series of holes 42 extending into stator 3a to form passages. Furthermore, one would not be motivated to add a discrete tuner to the compressor of Makino '009 because Makino '009 specifically teaches the need to reduce the weight of the compressor, such as by removing material from stator 3a in the form of holes 42. (*see* col. 1, lines 21, 45-49, and 63-65; col. 2, lines 5-8; col. 5, lines 58-67; and col. 6, lines 23-25). Adding an additional component to the compressor of Makino '009, such as a discrete tuner, would add weight to the compressor, and thus one of ordinary skill in the art would not be motivated to add a discrete tuner to the compressor of Makino '009. Accordingly, Applicants respectfully submit that Makino '009 does not disclose every element of independent Claims 12 and 21, and Claims 13, 17-19 and 25 depending therefrom, and therefore request withdrawal of the 35 U.S.C. §102(e) rejections thereof.

Further, as explained above, independent Claims 12 and 21, and Claims 13, 17-19 and 25 depending therefrom, would not be obvious in view of Makino '009.

Claim Rejections – 35 U.S.C. §103

The Examiner rejected independent Claim 1, and Claims 2-11 depending therefrom, over Makino '009 in combination with one or more references including U.S. Patent No. 6,453,695 to Marks et al. (hereinafter "Marks '695"), U.S. Patent No. 6,468,050 to Hashimoto et al. (hereinafter "Hashimoto '050"), and U.S. Patent No. 6,558,137 to Tomell et al. (hereinafter "Tomell '137").

Amended independent Claim 1 calls for a hermetic compressor including, *inter alia*, a housing defining an interior plenum, and an elongate tuner comprising a *discrete member* mounted within the interior plenum, the tuner having an open end and an opposite closed end, the tuner defining a resonating cavity, the resonating cavity in direct communication with the interior plenum via the open end.

Similar to the above, Applicants respectfully submit that Makino '009 does not disclose or suggest a tuner comprising a discrete member as called for in amended independent Claim 1. Applicants further submit that Marks '695, Hashimoto '050 and Tomell '137 do not correct for the deficiencies of Makino '009. Marks '695 does not disclose or

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suggest a tuner comprising a discrete member mounted within the interior plenum of a compressor, on the contrary, Marks '695 discloses resonator 50 integral to inlet line 22 of diesel motor 20. Hashimoto '050 does not disclose a tuner, and Tomell '137 discloses in-line discharge and suction mufflers 100 and 52 and does not disclose or suggest a discrete member tuner having an open end and a closed end, the open end in direct communication with the interior plenum of the compressor.

The Examiner rejected Claims 14, 16 and 26, which depend from amended independent Claims 12 and 21, respectively, under 35 U.S.C. §103 over Makino '009. The Examiner rejected Claims 15 and 20, which depend from amended independent Claim 12, and Claims 22-24 and 27, which depend from amended independent Claim 21, over Makino '009 in view of one or more references including Marks '695, Hashimoto '050, Tomell '137, and U.S. Patent No. 5,333,576 to Verkleeren (hereinafter "Verkleeren '576"). Similar to the above, Applicants respectfully submit that these additional references do not disclose or suggest a compressor including a discrete tuner as called for in amended independent Claims 12 and 21 and thus do not correct for the deficiencies of Makino '009. Verkleeren '576 does not disclose or suggest a tuner comprising a discrete member mounted within the interior plenum of a compressor, on the contrary, Verkleeren '576 discloses tube 22 integral to intake passage 18 of combustion engine 10.

Applicants respectfully submit that these additional references do not cure the deficiencies of Makino '009 and therefore request withdrawal of the 35 U.S.C. §103 rejection of amended independent Claim 1, and Claims 2-11 depending therefrom, as well as Claims 14-16, 20, 21-24 and 26-27, which depend from Independent Claims 12 and 21.

New Claims

Claims 28-30 are added by the current amendment. New independent Claim 28 calls for a method of attenuating the noise and vibration within a hermetic compressor comprising the steps of providing a tuner defining a resonating cavity and having an open end and an opposite closed end, the resonating cavity defining a length between the open and closed ends, positioning the tuner such that the open end is in direct communication with an interior plenum of the compressor, and manually adjusting the length of the resonating cavity in response to at least one operating parameter of the compressor.

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Because none of the references cited by the Examiner disclose a compressor including the foregoing features, Applicants respectfully submit that new independent Claim 28, and Claims 29-30 depending therefrom, define over the prior art and are in condition for allowance.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested. Specifically, Applicants respectfully submit that the application is in condition for allowance and respectfully request allowance thereof.

In the event Applicants have overlooked the need for an additional extension of time, payment of fee, or additional payment of fee, Applicants hereby petitions therefore and authorize that any charges be made to Deposit Account No. 02-0385, Baker & Daniels.

Should the Examiner have any further questions regarding any of the foregoing, he is respectfully invited to telephone the undersigned at (260) 424-8000.

Respectfully submitted,


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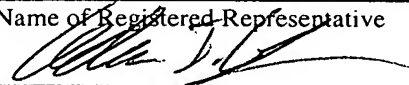
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Name of Registered Representative



Signature

June 24, 2005

Date